
SENATE BILL 5741

State of Washington 60th Legislature 2007 Regular Session

By Senators Franklin, Tom, Keiser, Hobbs, Hargrove, Kohl-Welles, Poulsen, Kline, Shin and Rasmussen

Read first time 01/30/2007. Referred to Committee on Labor, Commerce, Research & Development.

1 AN ACT Relating to occupational diseases affecting firefighters;
2 amending RCW 51.32.185; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** (1) The legislature finds and declares:

5 (a) By reason of their employment, firefighters are required to
6 work in the midst of, and are subject to, smoke, fumes, infectious
7 diseases, and toxic substances;

8 (b) Firefighters are continually exposed to a vast and expanding
9 field of hazardous substances;

10 (c) Firefighters enter uncontrolled environments to save lives,
11 provide emergency medical services, and reduce property damage and are
12 frequently not aware or informed of the potential toxic and
13 carcinogenic substances, and infectious diseases that they may be
14 exposed to;

15 (d) Firefighters are often exposed simultaneously to multiple
16 carcinogens;

17 (e) Firefighters so exposed can potentially and unwittingly expose
18 coworkers, families, and members of the public to infectious diseases;

1 (f) Harmful effects caused by firefighters' exposure to hazardous
2 substances, whether cancer, infectious disease, a heart injury, or
3 respiratory disease, develop very slowly, usually manifesting
4 themselves years after exposure;

5 (g) Cardiovascular disease is exacerbated by firefighting duties
6 and firefighting increases the incidence of cardiovascular disease and
7 heart injuries in firefighters;

8 (h) Firefighters frequently and at unpredictable intervals perform
9 job duties under strenuous physical conditions when engaged in
10 firefighting activities and routinely are unable to meet normal
11 definitions of "unusual exertion" standards; and

12 (i) Firefighters who experience heart injuries during firefighting
13 activities shall be assumed to meet current "unusual exertion"
14 standards during strenuous physical exertion.

15 (2) The legislature further finds and declares that all the
16 conditions listed under subsection (1) of this section exist and arise
17 out of or in the course of firefighting employment.

18 **Sec. 2.** RCW 51.32.185 and 2002 c 337 s 2 are each amended to read
19 as follows:

20 (1) In the case of firefighters as defined in RCW 41.26.030(4) (a),
21 (b), and (c) who are covered under Title 51 RCW and firefighters,
22 including supervisors, employed on a full-time, fully compensated basis
23 as a firefighter of a private sector employer's fire department that
24 includes over fifty such firefighters, there shall exist a prima facie
25 presumption that: (a) Respiratory disease; (b) ~~((heart problems that~~
26 ~~are)) injury to the heart causing death, or any health condition or~~
27 impairment resulting in total or partial disability experienced within
28 seventy-two hours of exposure to smoke, fumes, ~~((or))~~ toxic substances,
29 or strenuous physical exertion; (c) cancer; and (d) infectious diseases
30 are occupational diseases under RCW 51.08.140. This presumption of
31 occupational disease may be rebutted by ~~((a preponderance of the~~
32 ~~evidence)) clear, cogent, and convincing evidence. Such evidence may~~
33 include, but is not limited to, use of tobacco products, physical
34 fitness and weight, lifestyle, hereditary factors, and exposure from
35 other employment or nonemployment activities.

36 (2) The presumptions established in subsection (1) of this section
37 shall be extended to an applicable member following termination of

1 service for a period of three calendar months for each year of
2 requisite service, but may not extend more than sixty months following
3 the last date of employment.

4 (3) The presumption established in subsection (1)(c) of this
5 section shall only apply to any active or former firefighter who has
6 cancer that develops or manifests itself after the firefighter has
7 served at least ten years and who was given a qualifying medical
8 examination upon becoming a firefighter that showed no evidence of
9 cancer. The presumption within subsection (1)(c) of this section shall
10 only apply to primary brain cancer, malignant melanoma, leukemia, non-
11 Hodgkin's lymphoma, bladder cancer, ureter cancer, stomach cancer,
12 intestinal cancer, multiple myeloma, testicular cancer, prostate
13 cancer, and kidney cancer.

14 (4) The presumption established in subsection (1)(d) of this
15 section shall be extended to any firefighter who has contracted any of
16 the following infectious diseases: Human immunodeficiency
17 virus/acquired immunodeficiency syndrome, all strains of hepatitis,
18 meningococcal meningitis, or mycobacterium tuberculosis.

19 (5) Beginning July 1, 2003, this section does not apply to a
20 firefighter who develops a heart or lung condition and who is a regular
21 user of tobacco products or who has a history of tobacco use. The
22 department, using existing medical research, shall define in rule the
23 extent of tobacco use that shall exclude a firefighter from the
24 provisions of this section.

25 (6) In any case where the presumption is upheld, or the employee
26 prevails on the basis of a presumption, whether at the board of
27 industrial insurance appeals or in any court, the employee must be
28 awarded full benefits, attorney fees, expert witness costs, and all
29 other costs from the date of the employee's initial application for
30 benefits.

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